

Chapter 8

BUSINESSES*

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***Cross references**—Contractors, § 6-186 et seq.; emergency services, ch. 10; merchandising and advertising in parks, § 18-38; solid waste collectors, § 22-181 et seq.; zoning permit regulations, § 28-211 et seq.; zoning sign regulations for commercial and industrial districts, § 28-381.

State law reference—Authority to regulate and license occupations, businesses, trades and professions, G.S. 153A-134.

ARTICLE I. IN GENERAL

Secs. 8-1—8-30. Reserved.

ARTICLE II. MASSAGE***DIVISION 1. GENERALLY****Sec. 8-31. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Massage parlor means any place of business where massagists are employed to offer massage for a salary or fee.

Massagist (masseur, masseuse) means one who offers to massage another for a salary or fee.
(Ord. of 8-18-75, § 1)

Cross reference—Definitions generally, § 1-2.

Sec. 8-32. Penalty for violation of article.

Violation of this article is punishable according to the provisions of section 1-7.
(Ord. of 8-18-75, § 11)

Sec. 8-33. Enforcement of article.

This article may be enforced by any appropriate equitable remedy as authorized by G.S. 153A-123.
(Ord. of 8-18-75, § 12)

Sec. 8-34. Massage parlors subject to inspection.

The sheriff or any member of his department may inspect massage business premises during the hours that they are open for business.
(Ord. of 8-18-75, § 9)

***State law reference**—Adult establishments, G.S. 14-202.10 et seq.

Sec. 8-35. Massage of a person of the opposite sex for hire.

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Massage means the manipulation of body muscle or tissue by rubbing, stroking, kneading or tapping, by hand or mechanical device.

(b) *Prohibited acts.* It shall be unlawful for any person licensed as a massagist or holding a massage parlor license issued by the county to massage a person of the opposite sex for a salary or fee except under the signed order of a licensed health professional.

(c) *Conviction ground for license revocation.* A conviction for violation of this section is hereby made grounds for revoking a massagist's or massage parlor license after a due process hearing as the county may otherwise provide by ordinance.
(Ord. of 10-16-78, §§ 1, 2, 5)

Sec. 8-36. Licensed health professional excluded.

Licensed health professionals acting in the ordinary course of their profession are not massagists, nor owners of massage parlors.
(Ord. of 8-18-75, § 2)

Sec. 8-37. Prohibitions and limitations.

(a) *Minimum age.* No person in the business of massage may massage a person under 18 except under the direction or by order of a licensed health professional. No person may employ one under 18 to work as a massagist.

(b) *Hours of operation.* Massage parlors may operate only between the hours of 8:00 a.m. to 10:00 p.m.

(c) *Scope of massage.* No massagist may, in the course of business, massage the penis, scrotum, mons veneris, vulva or vaginal area of another.

(d) *Inducement to violate ordinances or provisions of state statutes relating to sexual misconduct.* No person may induce a licensee or employee or

agent thereof to violate the ordinance or any provision of the state statutes, involving sexual misconduct including, but not limited to, G.S. 14-177—14-202.1 and G.S. 14-203—14-208.

(e) *Licensee required to supervise.* Massage parlor licensees shall supervise the conduct of massagists in their employ. Failure to suppress illegal activity is grounds for revocation of a license.
(Ord. of 8-18-75, § 8)

Secs. 8-38—8-60. Reserved.

DIVISION 2. LICENSE

Sec. 8-61. Required.

A person may not work as a massagist nor operate a massage parlor, unless licensed.
(Ord. of 8-18-75, § 3)

Sec. 8-62. Fingerprinting required.

An applicant for a license shall submit to fingerprinting. The fingerprints may be sent to the SBI, FBI or other appropriate law enforcement agencies.
(Ord. of 8-18-75, § 4)

Sec. 8-63. Issuance; fee required.

The sheriff shall issue licenses to any eligible persons who pay an annual fee in an amount set from time to time by the board for a massagist's license or in an amount set from time to time by the board for a massage parlor license. Such licenses shall be valid for one year only and must be renewed annually.
(Ord. of 8-18-75, § 5)

Sec. 8-64. Persons ineligible.

The following persons may not be licensed to work as a massagist or hold a massage parlor license:

- (1) A person who has been convicted of a crime involving sexual misconduct including, but not limited to, G.S. 14-177—14-202.1, and G.S. 14-203—14-208.
 - (2) A person under 18.
 - (3) A person violating this article.
- (Ord. of 8-18-75, § 6)

Sec. 8-65. Posting required.

(a) The sheriff shall provide a copy of this article for posting to each massage parlor licensee upon licensing.

(b) Each massage parlor licensee shall display in a prominent place the license issued pursuant to this article together with a copy of this article.

(c) Each massagist shall post his license in his work area.
(Ord. of 8-18-75, § 7)

Sec. 8-66. Revocation; due process hearing.

(a) The board of commissioners shall revoke the license of any licensee who has been convicted of:

- (1) A crime involving sexual misconduct including, but not limited to, those covered by G.S. 14-177—14-202.1 and G.S. 14-203—14-208; or
- (2) This article.

(b) Any revocation shall be made only after written notice of the grounds for revocation has been given to the licensee, and he has had an opportunity to answer the charges in a hearing before the board of commissioners.

(c) At a license revocation hearing conducted pursuant to subsection (a) of this section the board shall consider only a licensee's final conviction of:

- (1) A crime involving sexual misconduct including, but not limited to, those covered by G.S. 14-177—14-202.1 and G.S. 14-203—14-208; or
- (2) This article.

(d) The board of commissioners may revoke the license of any licensee who is found to have failed to supervise the conduct of massagists in his employ as provided for in section 8-37.

(e) At a license revocation hearing conducted pursuant to subsection (d) of this section the board shall consider any competent evidence.
(Ord. of 8-18-75, § 10; Ord. of 10-19-77)

Secs. 8-67—8-90. Reserved.

ARTICLE III. PEDDLERS*

Sec. 8-91. Definitions.

Unless the context otherwise requires, the following words and phrases, for the purpose of this article, shall have the following meaning:

Peddler is a person who travels from place to place with an inventory of goods, who sells the goods at retail or offers the goods for sale at retail, and who delivers the identical goods he carries with him.

Itinerant merchant is a merchant, other than a merchant with an established retail store in the county, who transports an inventory of goods to a building, vacant lot, or other location in the county and who, at that location, displays the goods for sale and sells the goods at retail or offers the goods for sale at retail.

Flea market is a location, other than a permanent retail store, where space is rented to others for the purpose of selling goods at retail or offering goods for sale at retail.

Flea market operator is a person who rents space, at a location other than a permanent retail store, to others for the purpose of selling goods at retail or offering goods for sale at retail.

Flea market vendor is a merchant, other than a merchant with an established retail store in the county, who transports an inventory of goods to a flea market and who, at that location, displays the goods for sale and sells the goods at retail or displays the goods for sale and sells the goods at retail or offers the goods for sale at retail.

County means within the exterior limits of the County of Lee, State of North Carolina.

Person includes any individual, firm co-partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, or other

*Editor's note—Ord. of July 10, 1989, did not specifically amend the Code; hence, inclusion herein as Art. III, was at the discretion of the editor. See also the Code Comparative Table.

group, or combination acting as a unit, body politic, or political subdivision, whether public, private, or quasi-public and the plural as well as the singular number. (Ord. of 7-10-1989, § 1)

Sec. 8-92. Application for permit.

Every person proposing to conduct, carry on or pursue the business of a peddler, itinerant merchant, flea market, flea market operator, or flea market vendor in the county shall make application to the county for a permit to do so. The applicant shall pay a nonrefundable \$25.00 application fee at the time of the application. The application shall remain on file for a minimum of two weeks before the permit can be issued. During the two-week period, the applicant's background shall be investigated by the Sheriff's Department of Lee County. Following this investigation, if the application is approved, the applicant must submit proper credentials and proof of financial stability. If the application is approved and the permit issued, the applicant shall pay an additional fee of \$75.00 at the time the permit is issued and the permit shall be valid for one year only. (Ord. of 7-10-1989, § 2)

Sec. 8-93. Soliciting to private residences.

No peddler or itinerant merchant shall go in or on private residences in the county, not having been requested or invited to do so by the owner or occupant thereof for the purpose of soliciting orders for the sale of goods at retail. (Ord. of 7-10-1989, § 3)

Sec. 8-94. Use of county's property.

No person shall use any part or parcel of the county's property that is under the jurisdiction or control of the county as a stand or place from which to sell a commodity, goods or produce. (Ord. of 7-10-1989, § 4)

Sec. 8-95. Exemptions.

This article does not apply to the following:

- (1) A peddler, itinerant merchant, or flea market vendor:
 - a. Who sells only farm or nursery products grown by him;

- b. Who sells only crafts or goods made by him;
- c. Who sells only his own household personal property;
- d. Who is a nonprofit charitable, educational, religious, scientific, or civic organization;
- e. Who sells printed material, wood for fuel, ice, seafood, meat, poultry, livestock, eggs, dairy products, bread, cakes, or pies; or
- f. Who is an authorized automobile dealer licensed pursuant to state law and local ordinances.

(2) A peddler who maintains a fixed permanent location in the county from which he makes at least 90 percent of his sales, but who sells some goods in the county by peddling.

(3) An itinerant merchant:

- a. Who locates at a farmer's market;
- b. Who is a part of an agricultural fair which is licensed by the Commissioner of Agriculture pursuant to G.S. 106-520.3;
- c. Who sells goods at an auction conducted by an auctioneer licensed pursuant to G.S. Chapter 85B.

(4) A peddler who complies with the requirements of G.S. 25A-38 through 25A-42 or complies with the requirements of G.S. 14-401.13.

(5) Disabled veterans of World War I and World War II, Vietnam conflict and Korean conflict who have been bona fide residents of this state for 12 or more months continuously and who have made proper application to the board of commissioners for such exemption.

(6) Widows with dependent children upon proper application to the board of commissioners.

(Ord. of 7-10-1989, § 5)

Sec. 8-96. Violation.

It shall be a violation of this article for a person to:

- 1. Fail to obtain a permit as required by this article;
- 2. Knowingly give false information in the application process for the permit;
- 3. To fail to possess or display such permit while engaged in the business of that of a peddler, itinerant merchant, flea market operator;
- 4. Violation of this article is a misdemeanor under G.S. 14-4 and the person violating the ordinance may be fined not more than \$50.00 or imprisoned for not more than 30 days.

(Ord. of 7-10-1989, § 6)